

SITE PLAN ATTACHED

LAND TO THE SOUTH OF BASKEVYNS DAYS LANE DODDINGHURST ESSEX

**CONSTRUCTION OF 3 NO. AGRICULTURAL STABLES WITH RELATED
HARDSTANDING TO FRONT AND FENCING WITHIN SITE**

APPLICATION NO: 22/01734/FUL

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|---|---|------------------------|-------------|
| WARD | Brizes & Doddinghurst | 8 WEEK DATE | 15 May 2023 |
| PARISH | Doddinghurst | EOT DATE | 4 July 2023 |
| CASE OFFICER | Mr Daryl Cook | | |
| Drawing no(s) relevant to this decision: | AGDLB/PSE&FP/02; 43843BWLS-01; AGDLB/PBP/01; SuDS Management Plan; AGDLB/SuDS/01 | | |

This application has been referred to Planning Committee at the request of Doddinghurst Parish Council, objecting to the development on the following basis:

- Buildings proposed are excessive for the use as shelters for alpacas and goats.
- The field is known to be wet, which is not conducive to keeping alpacas and goats.
- Animal welfare is a concern as there is no mention of a fresh water supply and the applicant lives some considerable distance from the site.
- This part of Days Lane is a Protected Lane according to BBC's published Local Plan 2016-2033 Policy Map 4. Although we appreciated that this is not a reason in itself for refusal, Clause 5.172 states that an assessment of material increases in motorised traffic will be required.
- The site lies within the Green Belt and the applicant has demonstrated no special circumstances which would outweigh harm.

1. Proposals

Planning permission is sought for the construction of 3 no. agricultural stables with related hardstanding to front and fencing within site at Land to The South of Baskevyns, Days Lane, Doddinghurst.

2. Policy Context

Brentwood Local Plan (2016-2033) (BLP):

- Policy MG02 Green Belt
- Policy BE05 Sustainable Drainage
- Policy BE12 Mitigating the Transport Impacts of Development
- Policy BE14 Creating Successful Places
- Policy BE16 Conservation and Enhancement of Historic Environment
- Policy NE10 Contaminated Land and Hazardous Substances
- Policy NE11 Floodlighting and Illumination

The Brentwood Local Plan 2016-2033 was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

National policy and guidance

- National Planning Policy Framework 2021 (NPPF)
- National Planning Practice Guidance (NPPG)
- National Design Guide (NDG)

3. Relevant History

- 22/01419/FUL: Change of use from Agricultural to mixed use Agricultural & Equestrian, and construction of stables. - Application Withdrawn

4. Neighbour Responses

Where applications are subject to public consultation those comments are summarised below. The full version of each neighbour response can be viewed on the Council's website via Public Access at the following link:

<http://publicaccess.brentwood.gov.uk/online-applications/>

This application has been advertised by way of neighbour notification letters and public site notice. At the time of writing this report, 10 individual neighbour representations have been received for this application with representations summarised below:

- References to the previous withdrawn application and material considerations raised within
- The entire site falls within the protected lane (policy BE16) and concerns of impacts from the development during the construction phase
- The use of the land described is disputed with dogs being trained/exercised at the neighbouring Baskevyns.
- Land ownership dispute with highway encroachment
- Application should only be considered when the applicant lives in close proximity and has community ties with the area
- Discrepancies within the application form regarding presence of trees and hedgerows
- Shelters are suited or designed for the proposed use
- No evidence of goat husbandry or claim of ownership
- Fences, shelters and hardstanding should be controlled by condition requiring their removal in the event the use ceases
- The site is in the Green Belt, visible from the road, public footpath and does not have permitted development rights.
- Inappropriate development within the Green Belt and unacceptable design. No very special circumstances identified.
- Lack of screening from trees.
- Lighting associated with the stables would be detrimental to local wildlife.
- Nearby application previously refused (22/00479/FUL). Note this was allowed on appeal (see APP/H1515/W/22/3300005).
- Developer intentions / future proposals for alternative uses e.g. dwelling will be submitted if allowed.
- Future proposals to subdivide the land.
- Unacceptable flood risks associated with the site/development.
- No provision of parking.
- No details of utilities or services for buildings submitted.

- Animal welfare concerns.
- Impacts upon the amenities of neighbours living conditions including noise and general disturbance.
- Impacts upon the highway network
- The change of use would result in CO2 being produced from animals to the detriment of the environment and result in a loss of food production.
- Loss of a view

5. Consultation Responses

- **Highway Authority:**

The information submitted in association with the application has been fully considered by the Highway Authority. The proposal will utilise an existing field access for the continued agricultural use and includes stables and fencing, therefore from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to condition. Informative recommended.

- **Historic Buildings and Conservation Officer:**

No Heritage Statement is supplied in order for me to offer written advice; from my search on the NHLE no statutory designations are acknowledged. Should there be more specific advice required please supply the relevant documentation.

- **Environmental Health & Enforcement Manager:**

I would make the following comments.

Noise: Construction hours should be between 08:00 and 18:00 Monday to Friday, 08:00 and 13:00 on Saturdays and no building on Sundays or Bank Holidays.

There are no concerns with noise for the suggested use of the agricultural buildings, simply be used for shelter.

Odour : The methods to control odour suggested by the applicant are appropriate.

Contaminated Land: A watching brief should be kept for any unforeseen contamination. If contamination is found, an intrusive investigation must be completed, and reports shall be submitted to the Local Planning Authority (LPA).

- **County Archaeologist:**

The Essex Historic Environment Record (EHER) shows that the proposed development site is in an area where cropmarks of historic field boundaries have been identified from aerial photographs (EHER 18136). However, the proposed stables are small in scale and, being timber-framed single-storey buildings, will not have substantial foundations or below-ground impact. As a result, it is unlikely that significant archaeological remains will be negatively impacted by the proposals.

Accordingly, given our current knowledge, this office has no recommendations to make regarding this application.

- **Parish Council (submitted via Public Access):**

Object

Buildings Excessive for Proposed Use

The British Alpaca Society states that alpacas only require field shelters and the erection of three large stables seems excessive for the applicant's needs. This suggests that the buildings may be used subsequently for other reasons.

Animal Welfare

This field is known to be wet and regularly discharges water onto the road. We understand that alpacas and goats do not fare well on wet ground. There is no mention in the application of how fresh water or electricity will be supplied. The applicant lives some distance from the site and, although he states he intends to move to the area at some point, we are concerned for the animals' welfare. How will they be fed, watered and cared for?

Protected Lane

It has been stated by Borough Cllrs that this section of Days Lane is not a Protected Lane. However, BBC's Adopted Local Plan 2016-2033 Policy Map shows that the Protected Lane runs past the application site. Whilst we appreciate that this in itself is not necessarily a reason for refusal, Clause 5.172 states that an assessment of material increases in motorised traffic will be required. We would therefore expect this to be carried out and assessed before any decision is made.

Green Belt

The site lies within the Green Belt and the applicant has demonstrated no very special circumstances which would outweigh harm (National Planning Policy Framework Clause 148)

In summary, the application should be consistent with the land's agricultural use and with the animals it proposes to accommodate. It should also recognise the cumulative

impact of additional traffic in the Protected Lane, and gradual creep undermining the Green Belt.

The Parish Council supports and shares the concerns of the residents who have responded to this consultation. We will ask that this application is heard and determined in public if it is recommended for approval.

- **Arboriculturalist** - No response received at the time of writing this report.
- **Environment Agency**- No response received at the time of writing this report.

6. Summary of Issues

The starting point for determining a planning application is the Development Plan, in this case the Brentwood Local Plan 2016-2033. Planning legislation states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant material considerations for determining this application include the NPPF and NPPG. Although individual policies in the Local Plan should not be read in isolation, the plan contains policies of particular relevance to this proposal which are listed in section 2 above.

Site context

The application site is in the Green Belt which washes over the locality. It is off Days Lane, directly to the south of 'Wishfield Bungalow'. The total site area is 4.57 hectares and is currently in agricultural use. The site is not located adjacent to the protected lane, which contrary to the policies map, ends further north above the site. This is explored in further detail below.

Recent Planning History

With the exception of a withdrawn application (for a similar scheme referenced above), there are no other available planning records applicable to this site.

Green Belt considerations

Policy MG02 of the BLP indicates that development will be considered in accordance with the provisions of national planning policy, i.e., the NPPF. Chapter 13 of the National Planning Policy Framework (NPPF) relates to the protection of Green Belt land. Paragraph 137 states that the Government attaches great importance to Green Belts and the protection of its essential characteristics – its openness and permanence. Green Belt is a spatial designation not a qualitative one, therefore the requirement to protect openness applies just as much to attractive countryside as to less attractive areas of Green Belt.

Paragraph 147 states that inappropriate development, is by definition harmful to the Green Belt and should not be approved except in Very Special Circumstances (VSC). However, VSC would not exist unless the potential harm is clearly outweighed by other

considerations. The NPPF stipulates that new buildings are inappropriate development in the Green Belt, unless one of a short list of quoted exceptions in paragraph(s) 149 or 150.

The supporting statement lists exceptions to inappropriate development and appears to identify paragraph 149(a) as being applicable, that is for “*buildings for agriculture and forestry*”. This is considered to be the only exception applicable to the development.

Agriculture is defined by s336 of the Act which reads: “*agriculture*” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes.

Based simply on the description of the development, the proposal would represent an exception. Alpacas, for example, are widely considered and accepted to be livestock.

There is no test within the Framework, or local policies, requiring applicants to reasonably demonstrate buildings would be used for agricultural purposes although a condition is recommended to ensure the building is only used for purposes related to agriculture. Furthermore, there is also no requirement that the agricultural use to which the building is related to be viable or driven by a commercial enterprise. This approach is supported by the Legal team.

Finally, for developments that comply with paragraph 149(a) an assessment of the scheme’s impact on openness is unnecessary, as confirmed by *R (Lee Valley Regional Park Authority) v Epping Forest DC and Valley Grown Nurseries Ltd [2016]*.

The welfare of animals is covered by separate legislation and is not material to the determination of this application.

The proposed development is considered to trigger exception para 149(a) of the NPPF and would therefore not be inappropriate development in the Green Belt. The proposal is considered to be compliant with Policy MG02 of the BLP.

Heritage and Design considerations

Chapter 16 of the National Planning Policy Framework aims to conserve and enhance the historic environment with paragraph 199 stating that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the heritage asset’s conservation. Significance can be harmed or lost through alterations or destruction of the heritage asset or development within its setting. Policy BE16 of the BLP is also relevant.

Policy BE14 seeks to create successful places ensuring new development meets high design standards (including materials) and delivers safe, inclusive, attractive and accessible places. It also seeks to protect neighbour amenities, promote sustainability

and enhance the natural environment. The preamble text also identifies the Essex Design Guide (EDG) as a useful starting point for a development.

The Essex Historic Environment Record (EHER) shows that the proposed development site is in an area where cropmarks of historic field boundaries have been identified from aerial photographs (EHER 18136). However, the proposed stables are small in scale and, being timber-framed single-storey buildings, will not have substantial foundations or below-ground impact. As a result, the Archaeology team at ECC advise it is unlikely that significant archaeological remains will be affected by the proposals.

Furthermore, the Historic Environment Advisor (County) has previously advised within the consultation response of application 22/01419/FUL, that the segment of Days Lane on which the proposed development is located is not a 'Protected Lane'. That ends to the north of the development (near the Junction with Solid Lane). This is contrary to what is shown on the Policies Map where, in error, the notation continues south past the junction. ECC has concluded that any proposed access alterations or widening associated would not have a direct impact on the Protected Lane.

In terms of the error on the Policies Map, Local Plan document C29 "[Protected Lanes Assessment](#)", Figure 8 (pg.21) is the authoritative document, confirms the extent of the Protected Lane and showing that it ends at the junction described above. This is crudely depicted in the image below: the blue line represents the Protected Lane and the red X illustrates the broad location of the site. The inaccurate plotting of the extent of the protected lane on the [policies map](#) would not be an appropriate basis for determining this issue.



Above: Extract from Local Plan document C29, Figure 8, pg.21

In terms of design, each shelter is identical in appearance and scale, each with a hay store to one side and three stables. The drawings submitted illustrate a pitched roof

building with maximum height of 3m, a length of 15m and a depth of 3.6m plus 1.2m roof overhang. Hardstanding areas of 15m x 2m are also located to the front of each building with concrete base. Indicative photos of a typical building is included within the Planning Statement. Overall, their scale and design are considered to be of a low profile and as a form of agricultural storage building, not incongruous within a rural setting. The overall design, scale and materiality is considered to be acceptable. Furthermore, these are considered to be a sufficient distance from the road to avoid affects on existing hedgerows and trees.

In terms of neighbour amenity (living conditions), it is considered that the proposed shelters would not give rise to an overbearing form of development, nor through their use and proximity from the boundary result in a loss of privacy to the detriment of immediate neighbours. In terms of general disturbance, the Environmental Health team confirm that there are no material concerns in respect of noise or odour. Working hours are controlled by separate legislation and this is brought to the attention of the developer by way of informative.

Therefore, the proposed development is considered to be compliant with policy BE14 of the BLP and the aims and objectives of the NPPF and NDG.

Natural Environment considerations

The Environmental Health team has advised that a watching brief should be kept for any unforeseen contamination and if found, an intrusive investigation is to be completed with reports submitted to the LPA. A condition to this effect is recommended to ensure compliance with the aims of policy NE10 of the BLP.

In terms of policy NE11, a condition is recommended for a lighting strategy to mitigate the impacts of the development upon nocturnal species and other wildlife in the event external lighting is required.

Flood risk considerations

The site is located within Flood Zone 1 although the total site area would exceed 1 hectare. However, the buildings themselves occupy a much smaller portion of land and the SuDS team have advised that it does not wish to comment on the application.

Notwithstanding, and during the lifetime of the application, the applicant has submitted further details to incorporate private drainage features into the scheme to satisfy the requirements of policy BE05. As an approved drawing, these features would need to be incorporated into the building when constructed.

Parking and Highway considerations

The Highway Authority has reviewed the proposed development which would utilise an existing field access for the continued agricultural use of the site. No parking provision is considered necessary for the proposed use. It considers the proposal acceptable and recommends a condition in respect of fencing, ensuring this is not positioned within land

which has highway rights over it. The proposed development would comply with policy BE12 of the BLP.

Other Matters

The Parish Council has raised objection to the development (and subsequently referred the item). Its objections are summarised as: buildings excessive for proposed use, animal welfare concerns, the site is within a protected lane, and that no very special circumstances have been identified to outweigh the harm to the Green Belt. These are responded to in turn:

- It is considered that the scale of the buildings is acceptable and commensurate with the size of the development site. Their use is to be conditioned for agricultural purposes.
- In terms of animal welfare, this is controlled by separate legislation beyond the scope of planning considerations. Building utility and services, where required, would be controlled by building regulations. The buildings are not proposed for human occupation. The personal circumstances of the applicant are not a material planning consideration.
- In terms of the protected lane, this is considered in detail above. The site is not accessed via a Protected Lane.
- In terms of Green Belt considerations, an exception to inappropriate development has been identified as considered in detail above. On that basis, no VSC are required to be identified.
- The loss of a private view is not a material planning consideration.

Neighbour representations objecting to the development have been fully considered. The applicant has submitted a response, although this is not repeated here. Where representations have not been covered within the report above, they are commented upon below:

- The use of the land is for agricultural purposes as existing. The use would remain agricultural and is conditioned as such requiring removal of materials were the use to cease. Planning permission would be required for any change of use which does not fall within the definition of agriculture, including where land may be subdivided. The LPA are required to determine the application before them, and not to speculate on future applications which would be determined on its own merits.
- Land ownership disputes are not a material planning consideration.
- The personal circumstances and intentions of the applicant (developer) are not a material planning consideration.

Conclusion

The proposed development, for the reasoning outlined above, is considered to be compliant with the aforementioned policies of the BLP and the aims and objectives of

the NPPF and NDG. Therefore, the proposed development is recommended for approval.

7. Recommendation

The Application be APPROVED subject to the following conditions:-

1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved documents listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

3 Lighting strategy

No lighting shall be installed on the exterior of the buildings hereby permitted until a lighting strategy has been submitted to and approved in writing by the local planning authority. The strategy shall detail the types of lighting to be installed including luminance levels and how it will be designed to mitigate impacts upon wildlife from light spillage. The strategy shall be implemented as approved in perpetuity unless otherwise agreed by the local planning authority.

Reason: in the interests of protecting the natural environment and to avoid light spillage in accordance with policy NE11 of the Brentwood Local Plan.

4 Fencing clear of the highway

Notwithstanding the approved drawings, all fencing shall be positioned clear of any land which has highway rights over it in perpetuity.

Note: The Highway Boundary Plan is available from ECC Highway Records. Please refer to Highways consultee response.

Reasons: to preserve the integrity of the highway and in the interests of highway safety in accordance with policy BE12 of the Brentwood Local Plan.

5 Contamination

If contamination not previously identified is found to be present at the site, it shall be made safe, all works shall cease, and it be reported immediately to the local planning authority. A remediation strategy shall be submitted to and approved by the local planning authority detailing how this unsuspected contamination shall be dealt with.

Works shall not recommence until written approval from the local planning authority has been given. The remediation strategy shall be implemented as approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy NE10 of the Brentwood Local Plan.

6 Agricultural use only and removal

The buildings hereby permitted shall not be used other than for the purposes of agriculture as defined in S336 'Interpretation' of the Town and Country Planning Act 1990. If the use of the building(s) for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which it was substantially completed, and;

- i) planning permission has not been granted on application; or
- ii) has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the building for the purposes of agriculture within the unit permanently ceased;

then, the building must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been otherwise agreed in writing between the local planning authority and the developer.

Reasons: to protect the rural character of the area, the amenities of neighbouring residents and in order to safeguard the Green Belt from inappropriate development.

7 Notice of substantial completion

The developer shall notify the local planning authority in writing within 7 days of the date on which the development is substantially completed of that fact.

Reasons: to protect the rural character of the area, the amenities of neighbouring residents and in order to safeguard the Green Belt from inappropriate development.

Informative(s)

1 INF02

Reason for approval: The proposal would accord with the relevant policies of the development plan as set out below. The Council has had regard to the concerns expressed in representations, but the matters raised are not sufficient to justify the refusal of permission.

2 INF04

The permitted development must be carried out in accordance with the approved drawings and specification. If you wish to amend your proposal you will need formal permission from the Council. The method of obtaining permission depends on the nature of the amendment and you are advised to refer to the Council's web site or take professional advice before making your application.

3 The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE05, BE12, BE14, BE16, NE10, NE11, MG02; National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

4 Highways Informative(s):

Regarding the position of the highway boundary and land that has highway rights over it. It is not uncommon for land to be under the ownership of a third party, i.e. the sub-soil, but also be public highway. Highway boundary plans are available from ECC Highway Records. For more information on this service please follow this link:

<https://www.essexhighways.org/highway-schemes-and-developments/adoptions-and-land/highway-status-enquiries.aspx> and please contact highway.status@essexhighways.org who will be able to provide details.

Highway Boundary information is given with the following important note:

Information is given with the proviso that where there is a roadside ditch or pond, that ditch or pond (even if it has been piped or infilled) would not in the majority of circumstances form part of the highway. Often, roadside ditches, which are apparent on the ground are not indicated on the Ordnance Survey Mapping.

It is advised that further clarification in this regard is sought where the boundary could be affected by the presence of an historic ditch as this may be crucial when determining available land for highway works, visibility, and the placement of boundary features such as fences, walls, or hedges.

Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway.

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org.

5 INF21

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and

subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

6 INF29

The developer is reminded of the provisions of the Party Wall etc Act 1996 which may require notification of the proposed works to affected neighbours. Detailed information regarding the provisions of 'The Act' should be obtained from an appropriately qualified professional with knowledge of party wall matters. Further information may be viewed at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>

7 INF32

When carrying out building work, you must take appropriate steps to reduce noise and prevent nuisance from dust. The planning permission for the development may include specific conditions relating to noise control, hours of work and consideration to minimising noise and vibration from construction which shall be complied with. Notwithstanding, the developer is reminded to ensure compliance with the requirements of the Control of Pollution Act 1974. Prior permission must be sought for all noisy demolition and construction activities outside of core hours on all sites. If no prior permission is sought where it is required, the Authority may serve a notice on the site/works setting out conditions of permitted work under section 60 of the Act. British Standard 5228:2014 'Code of practice for noise and vibration control on construction and open sites' has been recognised by Statutory Order as the accepted guidance for noise control during construction work. An action in statutory nuisance can be brought by a member of the public even if the works are being carried out in accordance with a prior approval or a notice.

The developer is also reminded that, where applicable, during the construction phase on the building site, no bonfires should be undertaken. The Environmental Protection Act 1990 outlines that smoke arising from bonfires can be considered a statutory nuisance. The Highways Act also outlines smoke drifting onto a public highway is an offence.

The developer is also reminded, where applicable, to ensure that any asbestos containing materials within existing buildings is removed by an appropriately licensed contractor before undertaking any development on site in the interests of health and safety.

8 INF33

Considerate Contractor Advice Note - The developer is advised to ensure full compliance with the 'Guidelines for good practice' when undertaking construction and demolition works during the relevant phases. A copy of the guidelines is available online: https://document.brentwood.gov.uk/pdf/pdf_1185.pdf.

BACKGROUND DOCUMENTS

DECIDED: